

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of  
BellSouth Telecommunications,  
Inc.'s entry into interLATA  
services pursuant to Section 271  
of the Federal  
Telecommunications Act of 1996.

DOCKET NO. 960786-TL  
ORDER NO. PSC-98-0910-CFO-TL  
ISSUED: July 7, 1998

ORDER GRANTING MOTION FOR PROTECTIVE ORDER  
REQUESTING CONFIDENTIAL CLASSIFICATION  
FOR DOCUMENT NO. 05428-98

Pursuant to Section 271(d)(3) of the Telecommunications Act of 1996 (the Act), the Federal Communications Commission (FCC) has 90 days to issue a written determination approving or denying a Bell Operating Company's (BOC) application for interLATA authority. Further, the FCC is directed to consult with the appropriate State Commission before making a determination regarding the BOC's entry into the interLATA market. Specifically, the Act requires the FCC to consult with the State Commission in order to verify the BOC's compliance with the requirements of Section 271(c) of the Act. On June 28, 1996, we opened this docket to begin to fulfill our consultative role.

On May 15, 1998, Ameritech Communications International, Inc. (ACII) filed a Motion for Protective Order Requesting Confidential Classification for Response to Commission Data Requests. Specifically, ACII seeks protection for the information in its responses to Questions 1 - 4 of Commission staff's April 13, 1998, data request.

ACII asserts that its responses include proprietary confidential business information, including trade secrets relating to ACII competitive interests. ACII further asserts that disclosure of this information would reveal commercial information that ACII considers particularly valuable and which it treats as confidential. ACII states that its responses include information about ACII's operations and customers and disclosure of this information would allow ACII's competitors to have an advantage in providing competitive services in the local market. With the

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increase in competitive alternatives, ACII argues, this information should be granted confidential treatment. In addition, ACII asserts that disclosure of this information would harm ACII's ability to compete with other providers and would allow its competitors to undercut ACII's market position.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 364.183, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Upon consideration, I agree that disclosure of this information could have a detrimental effect on ACII's competitive interests and business operations.

Section 364.183(3), Florida Statutes, states that proprietary confidential business information is information that

. . . is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, it appears that the information for which ACII seeks confidential classification is information that, if disclosed, would cause harm to the company or its ratepayers because disclosure would harm ACII's business operations by impairing its ability to compete. Thus, this information qualifies as proprietary business information under Section 364.183, Florida Statutes, and Rule 25-

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22.006, Florida Administrative Code. It shall, therefore, be granted confidential treatment in accordance with those provisions.

Based on the foregoing, it is therefore

ORDERED by Chairman Julia L. Johnson, as Prehearing Officer, that the Motion by Ameritech Communications International, Inc. For Protective Order Requesting Confidential Classification of information in Document No. 05428-98 is granted.

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the material specified herein shall expire eighteen (18) months from the date of the issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Chairman Julia L. Johnson, as Prehearing Officer, this 7th Day of July, 1998.



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JULIA L. JOHNSON  
Chairman and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

1 2. Do you currently provide local exchange service in Florida  
2 either exclusively with your facilities or with a combination  
3 of your facilities and unbundled network elements that you  
4 purchased from an incumbent local exchange company (ILEC) in  
5 Florida? If yes:

6 RESPONSE: Yes. Although Intermedia primarily provides local  
7 exchange service to its customers by resale of ILECs'  
8 services, Intermedia also provides local exchange service in  
9 Florida to some customers exclusively over its facilities.  
10 Currently, Intermedia does not provide local exchange service  
11 using UNEs purchased from an ILEC.

12 a. Is it being provided solely to business customers,  
13 solely to residential customers, or both?

14 RESPONSE: The facilities-based local exchange service  
15 described in response to Item 2 above, is provided to business  
16 customers.

17 b. Through the use of your facilities and UNEs  
18 purchased from an ILEC, please provide the  
19 following:

20 1. the number of business subscribers you are  
21 serving in Florida;

22 RESPONSE: Intermedia is currently serving approximately 300  
23 business subscribers over its facilities.

24 2. the number of business subscriber lines that  
25 you service in Florida;

26 RESPONSE: As of May 28, 1998, Intermedia provides 22,300  
27 business subscriber lines over its facilities.

28 3. the number of residential subscribers you are  
29 serving in Florida; and

30 RESPONSE: Zero.

31 4. the number of residential subscriber lines  
32 that you service in Florida.

33 RESPONSE: Zero.

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